is to say, it must be treated as a tenancy agreement as distinct from a mere licence.

In this case the intention of the parties has to be inferred from the circumstances and conduct of the parties. No evidence was given as to the intention of the estate owners at the time the defendant's predecessor was allowed to enter into occupation and build. It certainly could not have been the grant of a bare licence in the nature of an indulgent permission such as, for example, to enter upon and use the land for temporary storage of goods. The admitted intention was that a dwelling house should be built upon a site designated and arranged to suit the convenience and advantage of the estate. The cost of constructing a dwelling house was, for the party expending the money, not an inconsiderable outlay, and in my opinion no reasonable person would have been willing to incur such expenditure without having an assurance of some degree of permanence for his occupation, and some assurance that he would not be arbitrarily ordered to remove his dwelling-house and himself at short notice. Such being the case, it seems to me that at the very lowest, what the estate owners intended to grant to occupiers of their land and they intended to accept was a tenancy from year to year.

Furthermore, it is clear from the facts that what the estate owners granted to the defendant's predecessor could not have been a licence because a licence is not assignable by the licensee, and consequently the defendant could not have acquired the rights of his predecessor by purchase. Nevertheless the plaintiffs have accepted the defendant as lawfully in occupation over the years and on that basis collected rent from him from time to time until 1953. They are now estopped from maintaining the contrary to be true.

In the result, therefore, there was evidence of exclusive possession, which is at least strong *prima facie*, though not decisive, evidence of tenancy. Then there were the annual payments, which are referable as much to a payment of rent by a tenant, the reddendum, as to payment of a fee for a temporary occupation licence, and therefore quite ambiguous.

Such being the state of the evidence after hearing both parties, I would, with respect, follow the principle stated by Lord Dunedin in *Robins* v. *National Trust Co. Ltd.*[9],

"Onus is always on a person who asserts a proposition or fact which is not self-evident. To assert that a man who is alive was born requires no proof. The onus is not on the person making the assertion, because it is self-evident that he had been born. But to assert that he was born on a certain date, if the date is material, requires proof; the onus is on the person making the assertion. Now, in conducting any inquiry, the determining tribunal, be it Judge or Jury, will often find that the onus is sometimes on the side of the other, or as it is often expressed, that in certain circumstances the onus shifts. But onus as a determining factor of the whole case can only arise if the tribunal finds the evidence pro and con so evenly balanced that it can come to no such conclusion. Then the onus will determine the matter".

Consequently, even if there was not a preponderance of evidence in favour of the defendant — which I think is to be found in the case here — the evidence pro and con was evenly balanced, and the onus on the plaintiffs not having been discharged by them, in my opinion judgment should have been given for the defendant.

As to the question of notice, it has been conceded by Counsel at the trial that if the Court held that there was a tenancy, no proper notice had been given. In any event a yearly tenancy cannot be terminated by a month's notice.

I would therefore allow the appeal with costs here and costs of the trial which had been agreed at $500.

Appeal dismissed.

Solicitors: *Ong Huck Lim & Co.*; *Presgrave & Matthews.*

FOO YIN SHANG & ANOR. v. FOO YIN FONG & ORS.

[O. C. J. (Good J.) November 19, 1959]

[Ipoh — O. S. No. 152 of 1958]

Trust and Trustees — Shares in Limited Company — Exercise of voting rights attached to trust shares — Unanimity of trustees.

Practice and Procedure — Originating Summons — Whether applicable to proceedings between co-trustees — R.S.C. 1957, O.55 rr.3 and 5.

A testator, by his will, appointed the two plaintiffs and the 1st defendant as his executors and trustees. The assets of the testator's estate include 81,200 shares in a limited company. Differences arose as to the election of a director to the board of the company. The 1st defendant, whose name stood first in the register of shareholders in respect of the 81,200 trust shares, was by virtue of Article 76 of the Articles of Association of the company alone entitled to vote in respect of these shares. Using the 81,200 shares at his own discretion the 1st defendant secured the election of one F.Y.L. by a majority of 124,860, whereas if the 81,200 votes had been cast the other way the election would not have been carried. The two plaintiffs, who were the other two co-trustees of the estate, regarded the election of F.Y.L. as unsatisfactory and sought to make the 1st defendant exercise the voting rights according to their directions (they being the majority).

It was submitted on behalf of the first defendant that the Court had no jurisdiction to grant the relief sought on an originating summons as 0.55 did not contemplate proceedings between co-trustees; and an originating summons taken out for purposes connected with a trust must be by trustees against beneficiaries or *vice versa*.

Held: (1) 0.55 rr. 3 and 5 is applicable to proceedings brought by one trustee as plaintiff against a co-trustee as defendant, where the trustees cannot agree in a matter falling within the administration of the trust. Accordingly the Court has jurisdiction to grant the relief sought on an originating summons;

(2) the 1st defendant could not be coerced into exercising his discretion in a particular way (*Tempest* v. *Lord Camoys* [6] applied *Butt* v. *Kelson* [8] distinguished). But it is a well-settled principle that the trustees must act in unison. Therefore the 1st defendant should not exercise the voting rights attached to the 81,200 shares belonging to the testator's estate except in accordance with the unanimous decision of all three trustees. If the

1st defendant could not agree with his co-trustees on any matter on which a poll was taken then the voting rights attached to the 81,200 shares could not be exercised in respect of that matter at all.

Cases referred to:—

(1) *Barclays Bank Ltd.* v. *Inland Revenue Commissioners*, [1959] 1 All E.R. 65 reversed on Appeal [1959] 3 All E.R. 140, C.A.

(2) *John Shields & Co. (Perth) Ltd.* v. *Inland Revenue Commissioners*, 1950 S.C. 441; 29 Tax Cas. 475.

(3) *Inland Revenue Commissioners* v. *Bibby & Sons, Ltd.* [1945] 1 All E.R. 667.

(4) *Luke* v. *South Kensington Hotel Co.* (1879), 11 Ch. D. 121.

(5) *In re Flower & Metropolitan Board of Works* (1884), 27 Ch. D. 592.

(6) *Tempest* v. *Lord Camoys* (1882), 21 Ch. D. 571.

(7) *In re Mayo*, [1943] Ch. 302.

(8) *Butt* v. *Kelsen*, [1952] Ch. 197.

(9) *In re Whichelow*, [1953] 2 All E.R. 1558.

(10) *Burns* v. *Siemens Bros. Dynamo Works*, [1919] 1 Ch. 225.

(11) *In re Wilson*, 28 Ch. D. 457.

(12) *Yap Tai Chee* v. *Yap Tai Cheong & Ors.*, 2 F.M.S.L.R. 35.

(13) *Cargill* v. *Bower* (1878), 10 Ch. D. 502, 508.

ORIGINATING SUMMONS.

R. H. V. Rintoul for the plaintiffs.

B. K. Das (*W. J. Huntsman* with him) for the 1st defendant.

J. M. M. Lewis for the 2nd, 3rd and 5th defendants.

Yeoh Cheang Lee for the 4th defendant.

Cur. Adv. Vult.

Good J.: These proceedings have been instituted as a result of family differences concerning the exercise of voting rights in a family undertaking known as Foo Nyit Tse & Brothers Ltd. (to which I shall refer hereinafter as "the Company") by trustees in whom certain shares are vested. In order to understand the proceedings, it is necessary to examine the sequence of events leading up to them.

[The learned Judge then examined the sequence of events leading up to the proceedings and disposed of a preliminary point of jurisdiction, which are briefly stated in the headnote above, and continued:]

Having disposed of the preliminary point of jurisdiction, I come now to the question in dispute. The issue is a perfectly simple one, and the argument on it proceeded as follows. Article 76 of the Articles of Association of the Company provides that where there are joint registered holders of any share, any one of such persons may vote at any meeting, either personally or by proxy, in respect of such share, *as if he were solely entitled thereto*, and if more than one of such joint holders be present at any meeting, personally or by proxy, then one of the said persons so present, whose name stands first in the register in respect of such share, shall alone be entitled *to vote* in respect thereof (the underlining is mine). It is common ground that the first defendant, Mr. Foo Yin Fong, is the person whose name stands first in the register in respect of the 81,200 shares of the estate of the Testator. The 1st defendant interprets Article 76 as giving him *carta blanche* to exercise his absolute discretion as to how the votes shall be cast. His co-trustees, the plaintiffs, urged the view that Article 76 merely provides convenient machinery for casting the votes but that the right to vote does not import a discretion as to how to vote in the case of joint trustee shareholders. Mr. Rintoul submitted that if the Testator had intended that the voting rights should be exercised by the 1st defendant in his unfettered discretion he would have said so in his Will; to which Mr. Das replied that the Testator must have been well aware of the provisions of Article 76 and must be presumed to have put his trust in the 1st defendant, as the senior director of the Company and the senior member of the family, to exercise the voting rights in the best interests of the beneficiaries of the estate. There is, however, the possibility of a conflict of loyalties, and it is easy to imagine a situation in which the 1st defendant might find himself obliged to put the interests of the Company, as conceived by him, before the interests of the beneficiaries, as conceived by his co-trustees. It is manifestly essential that in such a case the respective rights of the parties shall have been ascertained and declared, so that there shall be no doubt as to whether a majority of the trustees have the power to control the way in which the votes are to be cast.

Mr. Rintoul informed me that he relied on the case of *Barclays Bank Ltd.* v. *Inland Revenue Commissioners*,(1) in which the Bank were the executors of a deceased testator. The decision of Dankwerts J. in that case, on which Mr. Rintoul relied, was overruled by the Court of Appeal. The report, which is to be found in [1959] 3 All. E.R. at page 140, was very properly brought to my notice by Mr. Rintoul after the hearing. Very briefly, the question was whether the deceased testator, a Mr. Shipside, "had the control of" a company within the meaning of section 55(1) of the Finance Act, 1940, for the purpose of estimating the estate duty payable on the value of his assets. The deceased was the beneficial owner of certain shares, and certain other shares were registered in the names of four trustees jointly, of whom the deceased was one. Clause 61 of Table A in the Companies (Consolidation) Act, 1908 provides that in the case of joint holders of shares " . . . the vote of the senior who tenders a vote, whether by person or by proxy shall be accepted to the exclusion of the votes of the other joint holders; and for this purposes seniority shall be determined by the order in which the names stand in the register of members." Mr. Shipside, deceased, was the senior, in this sense, of the four joint trustee-shareholders. The total of his own shares and the trust shares was greater than fifty per cent of the total number of shares issued, so that he could control the voting, in the sense that

he could, by using the aggregate of the votes attached to all the shares of which he was a registered shareholder, secure the passing of any resolution at a general meeting. Dankwerts J. held that the deceased did not have the control of the company because, when exercising, as he was entitled to do, the voting rights attached to the shares of which he was a co-trustee, he was speaking not with his own voice but with the united voices of al four trustees; and it followed that, though first on the register, he was not voting the trust shares for himself and for his own purposes (as he was in respect of his own shares): he was voting those shares on behalf and in the interests, to the exclusion of his personal interest, of the four trustees as a body. Lord Evershed M.R. took a different view. He said:

"It is *nihil ad rem* that the control of the company may be in the hands of persons who themselves are controlled from without. The company is in this respect like a motor car the speed and direction of which is controlled by the driver — notwithstanding any influence or encouragement to which the driver is subject from other passengers."

After stating a number of reasons for his view, Lord Evershed went on to say:

"If I am right so far, than the only remaining question is whether the facts that Mr. Shipside, as the 'senior' of the four trustees, had by virtue of clause 61 of Table A only a prior right of voting quoad the other trustees, and that, when he voted, he must be taken to have spoken with the voices, in unison, of all four trustees, make any difference. It is true that these facts did not precisely arise in any of the decided cases; but in my opinion we should not on that ground distinguish this case from the Scottish case of *John Shields & Co. (Perth), Ltd.* v. *Inland Revenue Commissioners*(2) which (as I have said) has been expressly approved in this Court. It is true that under the relevant article in the Shields case, Mrs. Bell had more than mere priority — she was to be treated as the sole proprietor of the trust shares. But, like Mr. Shipside, she had still to attend and vote; and like Mr. Shipside, if (as we must assume) she performed her trust duties properly, she spoke with the voice of all the trustees."

Romer, L.J. took the same view, and in considering the construction of the expression "the control of the Company", decided that it bore the same meaning as "controlling interest", the construction of which was considered by the House of Lords in *Inland Revenue Commissioners* v. *Bibby & Sons, Ltd.*(3). In that case Lord Macmillan said, at page 670 —

"The control of a company resides in the voting power of its shareholders."; and

Romer, L.J. then went on:

"Nor does it matter that the shares which control the voting power are held by a trustee. '. . . . the trustee like the beneficial owner controls . . . . .' (per Lord Porter at page 672). Nor, as was pointed out by Lord Simonds, is it material that the trustee has to pay regard to the wishes of others. He said (at page 673): 'Those who by their votes can control the company do not the less control it because they may be themselves amendable to some external control'."

In that case, therefore, the result was that it was held to be immaterial, for the purpose of assessing the estate duty payable on the value of assets of a deceased shareholder, for which purpose the question "Did he have the control of the company?" is relevant, that he was enabled to control the company by virtue of the voting rights attached to shares registered in his name as a co-trustee. This is, however, a very different thing from saying that his joint legal ownership of the shares, together with his seniority, or priority of registration over the other trustees, gave him the right to vote in his unfettered discretion without regard to the wishes of his co-trustees. Indeed, the value of this case to the present plaintiffs lies in the fact that views to the contrary were expressed in it by all the eminent Judges who gave their opinions on the point. There was no doubt in the mind of any of them that Mr. Shipside had not the right to vote as he chose. Dankwerts J. said at first instance:

". . . . it is . . . apparent that the shareholder in question was not free to cast the votes attached to the shares as a free and unfettered voter but was bound to act only on the unanimous decision of the four registered shareholders."

Lord Evershed M.R., in the passage already quoted, accepted it as a fact that Mr. Shipside, when he voted, must be taken to have spoken with the voices, in unison, of all four trustees; and his observation with regard to Mrs. Bell, in *Shields'* case, that like Mr. Shipside, if she performed her trust duties properly, she spoke with the voice of all the trustees, is to the same effect. And Romer L.J., in discussing *Shields'* case, said:

"The essential fact is that the voting control was held to reside in Mrs. Bell notwithstanding that as a trustee she could only properly record a vote with the unanimous concurrence of her co-trustees and that in that sense her voice was the voice of them all."

These observations show that the unanimity rule is so well established that it is taken for granted. The rule is stated in a number of authorities which were cited in this case: in *Luke* v. *South Kensington Hotel Company*,(4) where Jessel M.R., said, at pp. 125 — 126:

"But two out of three trustees have no power to bind cestuis que trust. There is no law that I am acquainted with which enables the majority of trustees to bind the minority. The only power to bind is the act of the three . . . . . .";

in *In re Flower and Metropolitan Board of Works*,(5) where Kay J., said at p. 596:

"The theory of every trust is that the trustees shall not allow the trust moneys to get into the hands of any one of them, but that all shall exercise control over them."

The observations of Evershed M.R., Romer L.J., and Dankwert J. with reference to Mr. Shipside's estate in the Barclays Bank case indicate that in their opinion the rule applies with as much force to the exercise of voting rights attached to trust shares as it does to the receipt and custody of trust moneys.

The principle is thus clear, but great difficulty often arises in giving effect to it when co-trustees cannot agree. In *Tempest* v. *Lord Camoys*,(6) some of the testator's family were desirous of purchasing a mansion, to be paid for partly by the application of trust moneys in Court and partly by mortgage. One of the trustees approved of the scheme, but the other refused to concur. The willing trustee and the remainder-

man joined in a petition that the purchase might be carried into effect. The Court of Appeal, affirming the decree of Chitty J., on the petition, held that the Court could not control the dissentient trustee in the exercise of his discretion in refusing to make the purchase, or in refusing to exercise his power of raising money by mortgage for the proposed purpose. It follows from that decision, which though not strictly binding on this Court is of such authority that it would be impossible to disregard it even if one were so disposed, that I cannot grant the relief asked for in the surviving prayer in the summons, which would amount to coercing the 1st defendant into exercising his discretion in a particular way, and which is precisely what the Court refused to do in *Tempest* v. *Lord Camoys*.

In re Mayo,[7] in which two trustees were directed to concur with the remaining trustee in taking the necessary steps to exercise the trustees' statutory power of sale of certain freehold property, does not help the plaintiffs here, because the order was made on an application under section 30 of the Law of Property Act, 1925, which expressly empowers the Court, where the trustees refuse to exercise their power, to make "such order as it thinks fit". That case was concerned with the construction of a particular section and is not of general application to the question of the powers of the Court to control the exercise of their powers by trustees.

Mr. Rintoul referred me to *Butt* v. *Kelsen*[8] which decided that the beneficiaries can compel the trustees to use the votes attached to shares as the beneficiaries think proper or, if the beneficiaries cannot agree, as the Court thinks proper (*In re Whichelow*,[9] in which an application by beneficiaries for this purpose was refused, was decided on the point that all the beneficiaries were not before the Court). *Butt* v. *Kelsen*, however, applies to proceedings brought by beneficiaries against trustees, and has no application here, although it would appear that the beneficiaries could have joined in taking out a summons to compel the trustees to exercise the voting rights according to the wishes of the beneficiaries themselves.

Mr. Rintoul also referred to *Burns* v. *Siemens Brothers Dynamo Works*,[10] but that case is of merely academic interest since prayer 3 in the summons was withdrawn. If that prayer had remained, it might well have been the subject of argument whether *Burns* v. *Siemens* was an authority in support of the granting of the relief sought.

There were references in the course of the arguments to a number of matters which seem to me to be totally irrelevant to the subject-matter of the summons. Authorities were cited with reference to such matters as the rule that a minority of the shareholders in a company are bound by resolutions of the majority unless they can show that the majority acted *ultra vires*, or in oppressive abuse of their powers, or were guilty of fraud; the powers of the Court to appoint new trustees, the rule that beneficiaries are not entitled to compel the removal of a trustee and the appointment of a new trustee in his place — to change trustees whenever they think fit at their whim or fancy" (per Vaisey J.); the rule that the Court will not order the removal of a trustee against his wish except for incapacity or wilful misconduct. I do not, however, think it necessary to increase the already excessive length of this judgment by discussing matters which can have no bearing on the questions in issue, and I do not propose to dwell on the many irrelevant authorities which were cited to me.

There is, however, one last point which deserves consideration. It was raised by Mr. Yeoh Cheang Lee for the infant Defendant. He suggested that I had the power to order the administration of the estate, or of any part of the estate, and in support of that proposition he cited *In re Wilson*,[11] which was followed by the Court of Appeal of the Federated Malay States in *Yap Tai Chee* v. *Yap Tai Cheong & Ors.*[12] There is no doubt that the Court has power to make such an order, but the decisions in the two cases cited depended, as the decisions in such cases, being a matter of judicial discretion, must always depend, on the circumstances of the particular case in question. In *Wilson's* case the estate was very large, the disposition of the assets by investment was complicated and the Court was of the opinion that they required very careful management in order that they might be made productive to the fullest extent for the benefit of those who took under the will, including infant beneficiaries entitled to legacies amounting in the aggregate to £35,000. But Pearson J., said that where there is "any isolated question . . . . the decision of which would at once set at rest all differences between all the parties taking under the will, the Court then ought not to give a judgment for the general administration of the estate, but ought to decide those questions separately and apart from any administration." In *Yap Tai Chee's* case the Court of Appeal ordered the removal of the trustees on the ground that they had dealt with some of the funds in their charge in a way in which they were not authorised to deal with them and ordered that the trusts of the will be executed under the decree of the Court. In that case the proceedings were brought specifically for the removal of the trustees.

In the present case there is no application before me for the removal of the dissenting trustee, and even if I considered his removal to be essential to the interests of the beneficiaries I would feel myself precluded from ordering it by reason of the words of Fry J., in *Cargill* v. *Bower*[13]: "You cannot, under a general prayer for further relief, obtain any relief inconsistent with that relief which is expressly asked for."

I do not think that this is a proper case for administration of the estate under the supervision of the Court. Apart from the 81,200 shares in Foo Nyit Tse & Brothers Limited the estate is too small to justify such a course; and to order the administration, under the super-

vision of the Court, of that portion of the estate consisting of the 81,200 shares would give rise to serious practical difficulties in the running of the Company. Two alternative proposals have been put forward as possible solutions of the problem:

(a) By Mr. Das, that the application be dismissed with liberty to plaintiffs to apply from time to time, if so advised, (i) as to how the voting rights in respect of the trust share holding of 81,200 shares be exercised by defendant No. 1 at any shareholders' meeting in respect of any particular resolution that may be brought up at any such meeting; (ii) that the plaintiffs satisfy the Court that the manner in which 1st defendant proposes to exercise the voting powers in respect of any particular matter is improper and detrimental to the estate and the Company; (iii) that the plaintiffs satisfy the Court that the manner in which they propose the voting rights should be exercised in such matter is for the benefit of the estate and of the Company; and

(b) By Mr. Yeoh Cheang Lee, that an independent person having no interest in the estate or the Company be appointed a proxy in respect of the 81,200 shares. Another alternative would be to appoint the Public Trustee, if he were willing to act, trustee of the 81,200 shares.

But I do not think that any of these potential solutions suggests the right answer.

Mr. Das's solution overlooks the fundamental consideration that the co-trustees have a right to the benefit of the unanimity rule, which precludes the 1st defendant from using the votes at his discretion. I know of no grounds on which they should be required to move the Court for its approval of their wishes, which they are entitled to require their co-trustee to respect.

The other two solutions would be manifestly unsatisfactory when applied to the taking of policy decisions in a private company consisting of members of one family and would be likely to create even more trouble than the present "set-up" (if I may borrow the expression from the colloquial currency of today).

As I see it, there is here an isolated question which can and should be resolved *in vacuo*, and I think that the right way to resolve it is by making a negative, or prohibitory, order. Such an order would give effect to the well-settled principle that the trustees must act as one, and is not inconsistent with the relief asked for, although it is something less than what the plaintiffs seek. If the 1st defendant cannot agree with his co-trustees on any matter on which a poll is taken then the voting rights attached to the 81,200 shares cannot be exercised in respect of that matter at all.

I accordingly order that the 1st defendant shall not exercise the voting rights attached to the 81,200 shares in Foo Nyit Tse & Brothers Limited belonging to the estate of the Testator except in accordance with the unanimous decision of all the trustees.

Costs of all parties to be paid out of the estate.

Order accordingly.

Solicitor: *Shearn Delamore & Co.; Das & Co.; Maxwell, Kenion Cowdy & Jones; Gibb & Co.; Cheang Lee & Ong.*

Re ONG YEW TECK

[O. Cr. J. (Chua J.) February 4, 1960]

[Singapore — Habeas Corpus No. 2 of 1960]

Constitutional law — Habeas corpus — Criminal Law (Temporary Provisions) Ordinance, 1955, ss.47, 53 and 55(1) — Subjective test.

Habeas corpus — Arrest under Criminal Law (Temporary Provisions) Ordinance, 1955, s.55 — "Reason to believe."

This was an application for a writ of *habeas corpus* under section 375 of the Criminal Procedure Code. The applicant was arrested and detained under section 55 of the Criminal Law (Temporary Provisions) Ordinance, 1955 by a detective corporal who was directed by a superior officer to arrest the applicant.

The applicant contended (i) the arrest was illegal because the detective corporal when making the arrest under section 55(1) of the Ordinance had no reason to believe there were grounds which would justify the detention under section 47; (ii) section 55(1) imposes an objective test and hence the Court could examine whether there were in fact sufficient reasons to justify the detention.

Held: (1) the detective corporal who arrested the applicant was only the instrument of his superior officer and therefore the arrest was legal;

(2) on the proper interpretation of section 55(1) read in conjunction with section 53 which precludes the disclosure of facts prejudicial to the public interest and in the context of the whole legislation, it lays down a subjective test;

(3) in this case, as the superior officer honestly supposed that he had reason to believe the required thing the Court could not go behind his statement that he had such reason to believe.

Cases referred to:—

(1) *Nakkuda Ali* v. *Jayaratne*, [1951] A.C. 66.

(2) *Liversidge* v. *Anderson*, [1942] A.C. 206; [1941] 3 All E.R. 338.

HABEAS CORPUS.

David Marshall for the applicant.

A. V. Winslow (Solicitor-General) for the respondent.

Cur. Adv. Vult.

Chua J.: This is an application for a Writ of Habeas Corpus under the provisions of section 375 of the Criminal Procedure Code in the matter of Ong Yew Teck who is being detained in the lock-up at the Central Police Station. The Court granted an order nisi directing the Minister for Home Affairs and Commissioner of Police to show cause why the Writ should not be issued. The Minister in his affidavit stated that the applicant was arrested and detained by the police under the provisions of section 55 of the Criminal Law (Temporary Provisions) Ordinance, 1955 (hereinafter referred to as the Ordinance).

The facts are briefly these: In October 1959 Acting Deputy Superintendent of Police Ong Kian Tiong attached to the Secret Societies Branch of the Criminal Investigation Department, was instructed to inquire into the activities of the applicant and to consider whether any action should be taken under the provisions of the Ordinance. After making the necessary inquiries D.S.P. Ong Kian Tiong, on the 4th November 1959, instructed four of his detectives (including